

REMARKS

This paper is presented in response to the final official action dated April 10, 2009, wherein (a) claims 1-3, 5-13, and 15-20 were pending, (b) claims 1, 2, 5, 9, 10, 13, and 17-20 were rejected as obvious over Hiroshi et al JP 10-059364 ("Hiroshi") in view of Boersma U.S. 2003/0052038 A1 ("Boersma"), (c) claims 3, 11, and 12 were rejected over Hiroshi in view of Boersma and further in view of applicant's admitted prior art, (d) claim 6 was rejected as obvious over Hiroshi in view of Boersma and further in view of Rose U.S. 6,119,929 ("Rose"), (e) claims 7, 8, 15, and 16 were rejected as obvious over Hiroshi in view of Boersma and further in view of Lochmiller U.S. 4,383,609 ("Lochmiller"), and (f) claims 2, 3, 11, and 12 were rejected as obvious over Hiroshi in view of Boersma and further in view of Barnes et al. U.S. 3,968,895 ("Barnes").

By the foregoing, claim 1 is amended and claims 9, 13, and 18 are canceled. Support for the amendments to claim 1 may be found in the specification and claims as originally filed. For example, support for the amendment to claim 1 may be found at least in original claims 9 and 13, and at page 5, lines 2-4 of the specification as originally filed. No new matter is added.

As a result of the foregoing, claims 1-3, 5-8, 10-12, 15-17, 19, and 20 are pending.

Reconsideration of the application, as amended, is solicited.

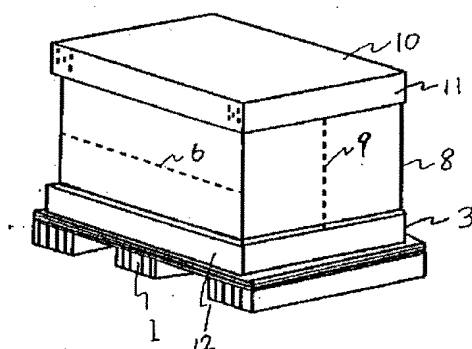
Applicants respectfully request entry of the foregoing amendments as the amendments could not have been presented earlier as the claims were rejected on new grounds in the most current official action. Alternatively, the amendments should be entered because they reduce the number of issues on appeal.

Applicants respectfully traverse the rejection of claims 1-3, 5-13, and 15-20 as obvious over Hiroshi in view of any one of Boersma, Rose, Lochmiller, and Barnes. The cited art fails to disclose or suggest each and every claim limitation. Each of the pending claims now recites a container comprising, in part, at least three sidewalls having an open base and a pallet, wherein the top of the pallet forms a base of the

sidewalls, the open base of the sidewalls allowing at least one item to be placed directly on the pallet.

Hiroshi discloses an assembly box for powdery materials, grain materials, short-fibrous materials, etc., that can be easily contained and easily discharged. See Hiroshi, abstract. The assembly box includes a square cylindrical body 8, a lower tray 3 as a bottom, positioned at the lower part of the body 8, and a pallet 1 under the lower tray 3. *Id.*, see Fig. 1 of Hiroshi reproduced below:

【図1】



As clearly seen in Fig. 1, and as taught by Hiroshi, the tray 3 is solid and the tray 3 is placed between the body 8 and the pallet 1. This teaching makes sense in light of the intended use of the Hiroshi device to transport fine granular materials that would otherwise be lost without the solid tray 3. As a result of the solid tray 3 being placed between the body 8 and the pallet 1, items placed within the body 8 cannot be placed directly on the pallet, as is recited in each of the pending claims.

Boersma, Rose, Lochmiller, and Barnes all fail to disclose or suggest a container including at least three sidewalls having an open base and a pallet, wherein the top of the pallet forms a base of the sidewalls, the open base of the sidewalls allowing at least one item to be placed directly on the pallet, nor were Boersma, Rose, Lochmiller, and Barnes cited as disclosing such limitations. To the contrary, each of Boersma, Rose, Lochmiller, and Barnes discloses a container having a solid bottom, which would not allow an item to be placed directly on a pallet.

Additionally, the solid bottoms of the containers disclosed in Boersma, Rose, Lochmiller, and Barnes would not allow a pallet to form a base of sidewalls because the sidewalls disclosed in Boersma, Rose, Lochmiller, and Barnes already have a base of their own.

Because Hiroshi, Boersma, Rose, Lochmiller, and Barnes all fail to disclose or suggest a container including at least three sidewalls having an open base and a pallet, wherein the top of the pallet forms a base of the sidewalls, the open base of the sidewalls allowing at least one item to be placed directly on the pallet, none of the pending claims can be rendered obvious by any combination thereof. For this reason, Applicants respectfully request withdrawal of the rejections and allowance of the pending claims.

Additionally, one of ordinary skill in the art would not modify Hiroshi to include sidewalls having an open base because doing so would render the Hiroshi device unsuitable for its intended purpose. "If a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900 (Fed. Cir. 1984); See also M.P.E.P. § 2143.01(V). As stated in the abstract, the purpose of the Hiroshi box is to transport "powdery materials, granular materials, short-fibrous materials, etc." Such materials would require a solid bottom surface to prevent some or all of the material from being lost through gaps or holes. As is known in the art, typical transportation pallets have several wood planks forming an upper support surface. These wood planks are often separated by a distance to reduce the weight of the pallet and to reduce the amount of material required to build the pallet. As a result, at least some transportation pallets do not have solid support surfaces. If the Hiroshi box were modified to include sidewalls having an open base (as recited in the pending claims), granular material would be lost between the planks of a standard pallet, thus rendering the Hiroshi box unsuitable for its intended purpose. For this reason, one skilled in the art would not modify the Hiroshi box to include an open base.

Moreover, transporting fine granular materials requires a sealed or continuous connection between the sidewalls and the base to prevent fine granular material

from being lost between the sidewalls and the base. Modifying the Hiroshi box to include an open base that would allow an item to be placed directly on the pallet would require removal of the tray 3. Removal of the tray 3 would remove the containment system for the fine granular material. As a result, the fine granular material would seep between the side walls and the pallet, thus rendering the Hiroshi box unsuitable for its intended purpose. For this additional reason, one skilled in the art would not modify the Hiroshi box to include an open base.


Conclusion

For all the foregoing reasons, it is submitted that all pending claims are of proper form and scope for allowance, and such action is solicited.

Should the examiner wish to discuss the foregoing or any matter of form in an effort to advance this application toward allowance, he is urged to telephone the undersigned at the indicated number.

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Respectfully submitted,

By 

Michael A. Chinlund, Reg. No. 55,064
MARSHALL, GERSTEIN & BORUN LLP
6300 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606-6357
(312) 474-6300
Agent for Applicant